

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

11 CV 7288

Nellie R. Johnson

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

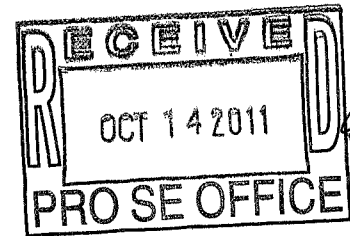
Bank of America

**COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION**

Jury Trial: ☒ Yes ☐ No

(check one)

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the space
provided, please write "see attached" in the space above and
attach an additional sheet of paper with the full list of names.
Typically, the company or organization named in your charge
to the Equal Employment Opportunity Commission should be
named as a defendant. Addresses should not be included here.)



This action is brought for discrimination in employment pursuant to: (check only those that apply)

☒

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

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Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

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Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

☐

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

☐

New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Nellie R. Johnson
 Street Address 31e Scenic Dr
 County, City Croton on Hudson
 State & Zip Code New York 10520
 Telephone Number 914 862 4081

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name Bank of America
 Street Address 1185 Avenue of America
 County, City New York
 State & Zip Code New York 10036
 Telephone Number 602-237-9979

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer Bank of America
 Street Address 2042 Albany Post Rd
 County, City Croton on Hudson
 State & Zip Code 10520
 Telephone Number 914-737-7100

II. Statement of Claim:

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: *(check only those that apply)*

☐ Failure to hire me.
☒ Termination of my employment.
☐ Failure to promote me.
☐ Failure to accommodate my disability.
☐ Unequal terms and conditions of my employment.

X Retaliation.

Other acts (specify): _____.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: 2/2008 -4/2009.
Date(s)

C. I believe that defendant(s) (*check one*):

 X is still committing these acts against me.

_____ is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☒ race African American ☒ color Black

☐ gender/sex _____ ☒ religion Christian

☐ national origin _____

☒ age. My date of birth is 08/23/1953 (Give your date of birth only if you are asserting a claim of age discrimination.)

☐ disability or perceived disability, _____ (specify)

E. The facts of my case are as follow (*attach additional sheets as necessary*):

On April 14, 2009, I was excessively disciplined and unjustly terminated from my Job as Assistant Manager by Iris Almeida Branch Manager, due to retaliation , age, race discrimination, my religion and bias treatment, I am filing this complaint. Iris Almeida made the condition in the banking Center very stressful and tiresome with her hostilities and discrimination to ward me. for example she would say " You people can't be that stupid" on another occasion Iris Almeida commented to me referring to the minorities "they all need to get back on the boat and go back to where they came from" Iris Almeida made subtle comments about my age that create anxiety being i was the oldest in the Office for example in my present she would say off handly " I really need to get me a younger staff, look at me

Note: *As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.*

III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: September 29, 2009 (Date).

and walk away. Over the five years at that banking center I encountered countless racial slur directed at me and other I was ridiculed for reading my Bible (I'm a Ordain Minister) during my lunch Break in the break room. She made comments "this is not a Church this is a Bank. I didn't want to complain because I watch as Iris Almeida systematically got rid of all minority employees and replace them with white employee they had either quit because of the treatment, transferred or were fired. I was the only Black minority left in the office. I didn't want to encounter the consequences that the other minority had encountered. But on or about February, 2008 I felt I needed assistance therefore I did complain to upper management about the treatment, I was told they would investigate but I never heard anything from them ,instead Iris Almeida became more hostile toward me increase my work load gave me assignments that should have been done by those I supervised but Mrs. Almeida insist I handle the tasks myself along with my regular responsibilities in my role as Assistant manager.

Mrs. Almeida began spending less and less time in the office came in late didn't come at all on some days, which left me to handle some of her tasks as well. I felt her conduct toward me unreasonable and was done to harass, intimidate and overwhelm me as a way to retaliate against me for reporting the treatment I and other was receiving. I spent addition hours at work away from my family trying to keep up with the unreasonable work load and keep my job. I work for Bank of America for seven years I've never received a below average performance assessment except in February 2009 two month before I was terminated. Mrs. Almeida compounded her effort and her determination to get rid of me. By using an unfortunate transaction ; that occurred on December 2008, where one of my sales & service rep. sent out a wire transfer that resulted in a bank loss. As her supervisor as soon as I was made aware of her error, I took step to correct the error, I follow every procedures Bank of America has in place to recall the wire transfer, there are documents of my efforts; but the recovery was dropped at the wire Departments inability to recover the funds in a timely manner. Mrs. Almeida did not wait or complete the due process that's stated in the procedure manual, she refunded the customer before the wire department could exhaust all its means of recalling a wire. Once Mrs. Almeida jump ahead and gave the client the money it derailed the process ,even though the funds that were being recall the client had access to in her foreign account the wire dept could not recoup the funds and the customer refuse to give back the addition money that Mrs. Almeida credit her account with. Therefore Mrs. Almeida charged the lost to me when it was she who in fact gave additional monies to the customer. She terminated me then promoted my customer service rep. who is White and who actually generated the wrong wire transfer. She also replaced me with a White Assistant Manager. Also at the same time of this incident mention above A white employee that was on final written warning at the Banking Center also over paid a customer the customer refuse to return the money same as the above mention client the different is Mrs Almeida assist this white employee to save his job by going into the customer account taking the funds even without the customer permission so that this white employee would not be charged with the lost of Bank of America monies that would have resulted in his termination. But she gave me a Black employee with no infraction , no written warning against me She gave me no help. In fact when I ask for help she said "forget about the money is gone"

There are other situation and examples of Mrs. Iris Almeida and Bank of America mistreatment and discrimination that lead up to my wrongful termination.

B. The Equal Employment Opportunity Commission (*check one*):

 X has not issued a Notice of Right to Sue letter.
 issued a Notice of Right to Sue letter, which I received on 07/21/2011 (Date).

Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

 X 60 days or more have elapsed.
 less than 60 days have elapsed.

IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: One Million Dollars, reinstatement of my position or higher position with no

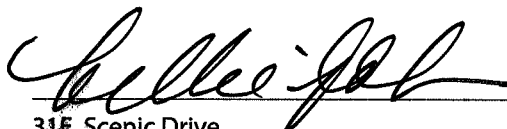
lapse of pay, time or benefits. All lawyer and court fee paid . Manager Iris Almeida severely reprimanded, the condito
cause mental stress, lost of income, uncomfortable working environment for me and other minorities with no repercu
(Describe relief sought, including amount of damages, if any, and the basis for such relief.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14th day of October, 2011.

Signature of Plaintiff

Address


31E Scenic Drive
Croton On Hudson NY 10520

Telephone Number

914 862 4081

Fax Number (*if you have one*)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Nellie Johnson**
31 E Scenic Drive, Apt. E
Croton On Hudson, NY 10520

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2009-04698

Orfelino Genao,
Investigator

(212) 336-3642**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Enclosures(s)

Kevin J. Berry
Kevin J. Berry,
District Director

7-16-11

(Date Mailed)

cc: **BANK OF AMERICA/NY5509**
1185 Avenue of the Americas
New York, NY 10036



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3630
General FAX: (212) 336-3625

Nellie Johnson
31 E Scenic Drive
Croton on Hudson, NY 10520

Re: Nellie Johnson v. Bank of America
EEOC Charge No.: 520-2009-04698

Dear Mrs. Johnson,

The Equal Employment Opportunity Commission (hereinafter referred to as the "EEOC") has concluded its inquiry into your allegation of discrimination. The EEOC has implemented charge prioritization procedures. The procedures call for us to allocate our resources to those charges that are most likely to result in findings of violations of the laws we enforce. In accordance with these procedures, the EEOC has evaluated your charge based on the evidence provided. The evidence fails to indicate that a violation of the law occurred and it is not likely that additional investigation will result in our finding a violation.

You allege that you were discriminated against by Respondent because of your race (Black), religion (Christian), age (56) and retaliated against for complaining in violation of Title VII of the Civil Rights Act of 1964, as amended and the Age Discrimination in Employment Act of 1967. You allege that you were regularly subjected to derogatory statements by your supervisor. You also allege that you complained to upper management and then were subjected to retaliation by being excluded from managerial responsibilities. You allege that your supervisor made you feel uncomfortable about your age and that on several occasions you were instructed by your supervisor not to read your bible during lunch breaks. You also allege that you were accused of conducting church business while other employees were working. You believe you were terminated as a result of these incidents.

Respondent denies that it unlawfully discriminated against you. Respondent provided information demonstrating that throughout your employment you received positive evaluations, promotional opportunities, and monetary increases. Respondent states that you were terminated because you approved a transaction without following proper due diligence which resulted in a cash loss of \$8,600.00. Respondent asserts that its guidelines clearly state that one time losses of \$2,500.00 or more may result in immediate termination. Respondent states that as a result it made the legitimate and non-discriminatory decision to terminate you based on this onetime loss that was not recovered.

We have taken into consideration all of the evidence on file including your rebuttal; however, it is unlikely that the EEOC would find a violation if it invested additional resources into your

case. Therefore, your charge is being dismissed. Enclosed is your Determination/ Notice of Right to Sue. The Determination is final. If you wish to pursue the charge on your own, you may file a lawsuit on your own in Federal District Court using the Notice of Right to Sue, within 90 days of your receipt of it. If you have any questions, you may contact Orfelino Genao at 212-336-3642.

Sincerely,

Orfelino Genao for
Kevin Berry,
District Director

7-18-11
Date



**U.S. Equal Employment Opportunity Commission
New York District Office**

33 Whitehall Street
5th Floor
New York, NY 10004
(212) 336-3620
TDD: 1-800-669-6820
FAX (212) 336-3625
1-800-669-4000

Respondent: BANK OF AMERICA/NY5509
EEOC Charge No.: 520-2009-04698
FEPA Charge No.:

December 21, 2009

Nellie Johnson
31 E Scenic Drive
Apt. E
Croton On Hudson, NY 10520

Dear Mrs. Johnson:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

- ☒ Title VII of the Civil Rights Act of 1964 (Title VII)
- ☒ The Age Discrimination in Employment Act (ADEA)
- ☐ The Americans with Disabilities Act (ADA)
- ☐ The Equal Pay Act (EPA)
- ☐ The Genetic Information Nondiscrimination Act (GINA)

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

- ☒ Please be aware that we will send a copy of the charge to the agency listed below as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.

New York State Division Of Human Rights
Federal Contract Unit
One Fordham Plaza, 4 Fl.
Bronx, NY 10458

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

A handwritten signature in dark ink, appearing to read "JW", is written over a horizontal line.

John Waldinger
Supervisory Investigator
(212) 336-3776

Office Hours: Monday – Friday, 8:30 a.m. - 5:00 p.m.
www.eeoc.gov

Enclosure(s)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA

☒ EEOC

520-2009-04698

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mrs. Nellie Johnson

Home Phone (Incl. Area Code)

(914) 862-4081

Date of Birth

08-23-1953

Street Address

31 E Scenic Drive

City, State and ZIP Code

Croton On Hudson, NY 10520

Named Is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

BANK OF AMERICA/NY5509

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(646) 556-1680

Street Address

1185 Ave Of The Americas,

City, State and ZIP Code

New York, NY 10036

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

04-14-2009



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by the respondent (Bank Of America) on February 2002. I was terminated from my position as an Assistant Manager on April 14, 2009. I believe I was discriminated by the Respondent because of my race (Black), age (56) and religion (Christian).

I was regularly subjected to derogatory statements made by my supervisor Iris Almeida. Ms. Almeida systematically removed every minority, especially Blacks from Respondent's Springvale Banking Center. She made every attempt to remove minorities either by termination or intimidation, forcing workers to resign or transfer. Some examples of these racially charged comments are, "you people better be glad for a job", "what did I do to get such a slow group of people", "I can't wait to change the atmosphere, you people can't seem to do anything right." When I spoke up against these comments she would reply "Oh Nellie you know what I mean".

After my complaints to Ms. Almeida's previous supervisors (Kim Early & Melissa Gonzalez) she began to retaliate against me. First, by removing me from having any input on hiring applicants unless they were Black. Second, work that I used to be able to delegate to other employees as an assistant manager had to be completed by myself along with my own work load. This would inevitably cause Ms. Almeida to accuse me

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Nov. 21, 2009

BARBARA D. SURROUGHS
Notary Public, State of New York
No. 0124000018
Commission Expires April 05, 2011

Date

Charging Party Signature

7.17.2011

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(is) Charge No(s):



FEPA



EEOC

520-2009-04698

and EEOC

State or local Agency, if any

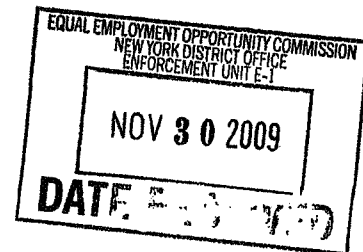
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

of not doing my work in a timely fashion. Also, after years of satisfactory evaluations Ms. Almeida began to write unsubstantiated e-mails and memos to current upper management.

On occasions Ms. Almeida made me feel uncomfortable about my age, making comments when standing next to me such as "I have to get some younger people in here". Statements such as this would cause me to fear losing my job as Ms. Almeida had a history of removing people she disapproved of.

As a minister of the gospel many customers from the community addressed me as "Reverend Johnson", which bothered Ms. Almeida. On several occasions I was told by Ms. Almeida not to read my bible during lunch breaks and she accused me of conducting church business while other employees were doing my work. As a culmination of all these incidents my employment was terminated on April 14, 2009.

I believe Respondent's actions as described above are in violation of Title VII of the Civil Rights Act of 1964 as amended and the Age Discrimination in Employment Act of 1967 (ADEA) which protects individuals from age discrimination.



I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

11.22.09

BARBARA D. BURROUGHS
Notary Public, State of New York
No. 0184806012
Qualified in Westchester County
Commission Expires April 09

7.17.2011